



John L. Salomone  
Town Manager

# TOWN OF NEWINGTON

131 CEDAR STREET  
NEWINGTON, CONNECTICUT 06111

**MAYOR JEFF WRIGHT**

## MINUTES

### CHARTER REVISION COMMISSION

**December 1, 2008**

#### **I CALL TO ORDER**

Commissioner Bafundo called the meeting to order at 6:34 PM in the Helen Nelson Room of the Newington Town Hall.

#### **II PLEDGE OF ALLEGIANCE**

#### **III ROLL CALL**

##### Commissioners Present

Nancy Bafundo – Chair  
Tony Boni  
Peter Boorman  
Robert Briggaman  
Alan Nafis

##### Also Present

Jeff Wright – Mayor  
Justin Clark – Counsel  
Tanya Lane – Town Clerk

(Note: verbatim comments are indicated by *italics* unless otherwise noted.)

The Commission agreed by consensus to discuss agenda item VI-C directly after public participation in order to address the Fire Chief/Fire Marshall issue. The Commission also agreed by consensus to allow questions to be asked of members of the public in the audience during the discussion.

#### **IV PUBLIC PARTICIPATION**

Kent Stoddard, 110 Groveland Terrace: Mr. Stoddard stated that he represents the Board of Fire Commissioners and members of the Fire Department (NVFD). He stated that both the members of the Fire Commission and NVFD believe that the current Charter language works as-is and believe that there should not be any changes regarding the Fire Chief and Fire Marshall. He stated that there is no reason to separate the Fire Chief and Fire Marshall positions, and remarked that it is an item to be handled by the Board of Fire Commissioners rather than an item to be addressed in the Charter. Mr. Stoddard stated that the Fire Commission uses good judgment to determine whether or not the two positions should be held by the same person, and indicated that by placing mandates in the Charter that ability is removed from the Fire Commission. He stated that the current Fire Chief is reviewed by the Fire Commission as Chief and reviewed by the Town Manager as Fire Marshall, and has always received outstanding reviews in both positions. Mr. Stoddard noted that the membership has been up in the Fire Department, and noted that in his thirty-five years of experience this is the best Fire Marshall staff the Town has ever had. He explained that the number of calls per year has fallen from a high of approximately 1200 down to approximately 700, a decrease which he attributed to the Fire Marshall's office staying on top of things. Mr. Stoddard stated that the current situation

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has worked well for the Town and asked the Charter Commission to examine where it got the information that the two positions need to be split. He stated that it likely did not come from the Chief's staff, the Fire Marshall's office or any of the members of the NVFD. He also noted previous discussion about the Town of Rocky Hill not allowing the same person to serve as both Fire Marshall and Fire Chief, and noted that there are currently 32 towns in Connecticut that do allow the same person to serve in both positions. Mr. Stoddard urged the Commission not to change the language, and also noted concern about having the Town Manager appoint the Fire Chief, noting a State statute that mandates that towns with Fire Commissions must have Fire Chiefs appointed by such Commission. He urged the Charter Commission and the Town Council not to do anything to disrupt the organization, and urged the Commission to focus on the larger issues, such as the budget referendum.

Eric Giansanti, 151 Audubon Avenue: Mr. Giansanti stated that he is a Newington firefighter, a twenty-one year veteran of the New Britain Fire Department and a current employee of the Town of Rocky Hill. He stated that in the eighteen years that the same person served as Fire Marshall and Fire Chief in New Britain there were no major problems and everything ran well. He noted the Commission's discussion about the Town of Rocky Hill, and explained that the interim Fire Chief in Rocky Hill had difficulties because in addition to serving as interim Chief and Fire Marshall he also served as Deputy Fire Chief at the same time, and stated that handling all three duties at the same time would be too much for one person to handle. He stated that in all of his years serving as a firefighter he has not seen any problems with having the same person serving in both positions, in either a paid or a volunteer department. Mr. Giansanti noted that Chief Schroeder has had an excellent record in both of the positions, and stated that Charter language should not be changed.

Dave Woods, 1384 Main Street: Mr. Woods stated that he has worked with Chief Schroeder in both the Fire Chief's office and the Fire Marshall's office for over fifteen years and has never once noted a conflict between the two positions. He noted that in 2007-2008 the Department responded to over 700 incidents, only 7 of which required a thorough Fire Marshall investigation. He stated that the Town is in danger of violating a State law that prohibits towns from restricting emergency personnel from volunteering in their community. He stated that the Charter language should not be changed.

Bill Pollack, 28 Kirkham Street: Mr. Pollack inquired whether there has been any reason to doubt the abilities of the Fire Chief and Fire Marshall in either position, and stated that if there is no reason then there is no reason to even have this discussion, and if there is a reason it should be made available to the Commission. He stated that there is no one who has seen any type of problem, and remarked that this seems to be a *political witch hunt*. He stated that if there is no problem or no valid reason then there should be no reason to discuss this.

Bob Regina, 38 Birchlawn Terrace: Mr. Regina stated that he is a thirty-one year veteran of the Newington Volunteer Fire Department as well as a former Town Councilor and former Deputy Mayor. He stated that after a two-year hiatus he recently rejoined the Fire Department knowing fully how well it is run. He stated that Chief Schroeder has done an admiral job of running the department and of turning the department around after it experienced some problems a couple of years back. He noted that under the current Charter the Fire Commission does not have the authority to interfere with the operations of the Newington Fire Department and stated that the Charter Commission should consult an attorney if plans to make any changes to the current situation.

Michael J. Fox, 1901 Main Street: Mr. Fox stated that his previous recommendation to separate the Fire Marshal/Chief positions was due to a 2003 consultant's study that had recommended the separation. He stated that members of the Fire Department are most concerned with fighting fires and making sure the Department runs properly. He noted that the member's opinions have now been made clear. He stated that there is nothing against Chief Schroeder, and stated that the Commissioners should take the Fire Department members' opinions into account when making their decision.

Bob Regina, 38 Birchlawn Terrace: Mr. Regina clarified that the consultant's study referred to in Mr. Fox's comments was performed in 2003 and did not address the current Fire Chief/Fire Marshall situation. He noted that Chief Schroeder did not serve as Fire Chief when the study was performed.

## **VI MATTERS TO BE CONSIDERED**

### **C Discussion – as Time Allows, Follow Up on Questions Related to Other Sections of the Charter that have been Previously Discussed.**

Atty. Clark distributed sample language that would be used if the Commission decided to go in the direction of not allowing the same person to serve in both the Fire Chief and Fire Marshall positions.

Mayor Wright thanked the NVFD members for attending the meeting and voicing their opinions. He stated that the Commission had heard from a very small number of people leading up to the current meeting, and inquired whether the opinions of those who spoke publicly at the current meeting represent the general consensus of the members of the NVFD. (The audience members answered in the affirmative.) Mayor Wright stated that the opinions have been heard loud and clear and indicated that he has no interest in separating the Fire Chief and Fire Marshall positions at this time.

Commissioner Boni stated that he had believed that there was good reason to separate the two positions, and stated that a previous lack of input from the NVFD had substantiated that belief. He stated, however, that upon hearing the nearly unanimous comments from the members present at the meeting his opinion has changed. He stated that he has the utmost respect for the NVFD and stated that he no longer wants to see the two positions separated.

Commissioner Briggaman thanked the NVFD members for attending and expressing their opinions. He agreed with Commissioner Boni, and explained that the Commission's investigation had been due to a small number of people who had expressed opinion that the two positions should be separated. He stated, however, that due to the response from the members at the meeting he is no longer in favor of moving forward with the language that would separate the two positions.

Commissioner Nafis clarified that the discussion was never specifically about Chief Schroeder or his abilities to handle both positions. He stated that Chief Schroeder has always done an outstanding job. He stated that the showing of the NVFD members at the current meeting is proof that the members are happy with how things are currently run in the Department. Commissioner Nafis indicated that he does not believe that this issue needs to be addressed in the Charter and stated that the Council can handle any issues in the future that may call for a change to the current situation.

Commissioner Boorman thanked the NVFD members for their input and participation, which he had requested on several occasions. He stated that the turnout this evening make the opinions of the Fire Commissioner, the Fire Marshall, Fire Chief and the rank and file members very clear. He noted other items that have come before the Charter Commission and asked for input on the following items from the present members:

- Should the Town have a Fire Commission? Commissioner Boorman noted that the Town currently has a Fire Commission and remarked that it serves a very important function. He stated that he is not in favor of removing the Fire Commission.
- Is there a conflict with allowing a member of the Fire Commission to also serve as an active firefighter? Commissioner Boorman stated that he does not see a conflict, but stated that he'd like to hear some members' opinions.
- Should Fire Commissioners be appointed rather than elected?

Commissioner Boni stated that while all of Commissioner Boorman's questions are good questions they are not currently being considered by the Charter Commission and are therefore moot questions. Mayor Wright agreed with Commissioner Boni.

Commissioner Bafundo expressed surprise with Commissioner Boorman's questions, and stated that she does not have any intent to support any further changes regarding the NVFD. She noted that coming into the current meeting she was not convinced that the Charter is the proper place to address the Fire Marshall/Fire Chief issue, and indicated that the input from the present members has convinced her that she is not in favor of supporting the language that would separate the two positions.

Commissioner Boorman again thanked the NVFD meeting members for attending. He noted that there had been requests from various people, including Councilor Bottalico, for the Commission to consider some of these changes, but noted that the Commission has indicated it does not wish to move in that direction. The Commission agreed by consensus not to include language that would separate the Fire Marshall/Fire Chief position. The Commission took a brief recess then reverted back to agenda item V.

## **V MINUTES**

A 11/13/08 Meeting

Commissioner Boni moved to accept the minutes of the 11/13/08 meeting as submitted. Motion seconded by Commissioner Briggaman. Motion passed 5-0.

## **VI MATTERS TO BE CONSIDERED**

A Discussion – as Time Allows, Proposed Language for Charter Revision Re: Budget Referendum.

Mayor Wright indicated that proposed section 821 has been debated for several months and noted that a few minor changes have been made. He stated that the language should be accepted as-is.

### Section 821(A)

Commissioner Nafis indicated that he still had a problem with the three-percent number and stated that setting a yearly budget based on average inflation over the past twenty or thirty years is not the way to go.

Commissioner Nafis moved to remove the three-percent cap as written in the proposed Charter section 821 and insert a four-percent cap. Motion seconded by Commissioner Boorman.

Commissioner Nafis stated that while he understands how the three-percent number was derived he does not understand how it is applied to a yearly budget. He distributed a list of the Town's historical grand lists and mill rates going back to 1935. He indicated that the three-percent that the Commission has discussed to this point is in regards to the change in the actual mill rate from one year to the next. He stated that the list before the Commission shows that the yearly budget is a volatile process, with many years of zero-percent increases and many years of greater than three-percent increases. Commissioner Nafis remarked that this is an indication that the Town has historically spent what was needed at the time. He stated that this is an example of *honest budgeting, not trying to get down to an artificial cap that doesn't address the needs of the Town or what the people need to spend money on*. He stated that based on this list the average increase needed to run the Town is actually slightly higher than three-percent, and stated that a four-percent cap would allow for more flexibility over the years and is a slight improvement over the current three-percent.

Commissioner Boorman noted that Commissioner Briggaman has expressed support for the three-percent cap based on a twenty-year CPI average. Commissioner Briggaman clarified that the average is actually over more than twenty years – it is over the entire span of CPI record-keeping. Commissioner Boorman submitted data that indicates that the average annual inflation rate in the United States over the past thirty years is 4.18%. He submitted a second document that indicates that the average annual inflation rate in the United States over the past forty years is 4.67%. He submitted a third document that indicates that the average inflation rate in the United States over the past fifty years is 4.07%. He stated that these documents demonstrate the danger of playing the statistics and having a tax cap. He stated that he does not believe that there should be a tax cap at all, but explained that he is supporting this motion because a four-percent tax cap is more realistic than a three-percent cap. He stated that it is not *genuine to pick a number that perhaps you believe is the right number without giving the rest of the information across the board as to the same index over a different number of years*.

Mayor Wright stated that the average historical rate of inflation in the United States since 1925 is three-percent. He stated that the three-percent number is intended to be a trigger for the mandatory referendum to try to save the taxpayers some money. He stated that a referendum would only be held in years in which the proposed tax increase is greater than three-percent. He explained that in the event of two failed referendums the tax increase would be capped at three-percent in order to avoid several referendums and to get the budget

passed. He noted that the bottom line is what people pay in taxes, and indicated that over the past seven years people have seen their taxes go up over sixty-percent. He stated that three-percent is the right number.

Commissioner Boni stated that he is in favor of the three-percent cap and the language as written. He stated that the three-percent cap will force the Council to put forth an honest effort to keep taxes down and will force the Council to sell any increase of greater than three-percent when needed. Commissioner Briggaman stated that he is in favor of the three-percent cap. Commissioner Bafundo stated that she does not see the three-percent as a “tax cap”, rather she sees it as a number for the Council to aim for, and if it cannot deliver then the budget goes to the public for a vote. She stated that the public has the right to have a say in its taxes and stated support for the three-percent number. Commissioner Nafis stated that the way the language is written, and the way it will actually operate does make the three-percent number a tax cap. He expressed concern that with a three-percent cap the Town will have a difficult time keeping up with inflation over the years and stated that putting *artificial numbers on a budget* does not allow the elected officials to do their job, which is to create a budget in accordance with the Town’s needs.

Mayor Wright stated that nothing is permanent in this document, and it is written in such a way that it can be changed again in the future in the event that a couple of years from now the Town decides that this is not the correct direction. He again expressed support for the language as written. Commissioner Boorman stated that while the Charter can be reopened in the future he does not feel that this is a valid reason for making the change. He stated that *this a discussion whether it is a good idea to make a major blow against the form of government this Town has – representative democracy. This is a direct blow to the representatives that you elect, that you trust, that you think will make the best decision for the Town based on the time and effort they put in. This is just fundamentally a mistake and it goes to the type of people that will run for office if you don’t provide them with the tools that they need to do the right job. With a budget cap, which is what the Mayor has called it from the day he proposed it... with the budget cap you set a situation up in which you will have a Town Council that will not be able to look at the Town’s people and tell them the truth.* He noted that with the referendum the Town will, in effect, have an election every year, but the way it is now there is already an election every other year. Commissioner Boorman remarked that representative democracy works. He stated that elected people need to be allowed to do their job. Commissioner Bafundo noted that the Commission has heard everyone’s opinions numerous times, and asked the Commission to focus on the document and the motion on the table. She disagreed with Commissioner Boorman’s opinion, and stated that as a former Councilor she would not hesitate to run for office again under the proposed Charter.

#### Roll Call Vote

Commissioner Bafundo – No  
Commissioner Boni – No  
Commissioner Boorman – Yes  
Commissioner Briggaman – No  
Commissioner Nafis – Yes

Motion failed 2-3 as indicated.

Commissioner Boorman noted that section 821(A) initially talks about looking at the budget through tax rate in mills, and then it talks about the tax rate in total proposed expenditures. He requested an explanation of the distinction between the two. Atty. Clark replied that the language was written so that in a year in which the proposed expenditures of the Council would cause the mill rate to increase by more than three-percent over the previous year the budget would go to a referendum, and in a year in which there is to be a State-mandated revaluation or if the Town is phasing in revaluation over a number of years, then the criteria for a budget referendum is based on total proposed expenditures rather than the mill rate. Commissioner Boorman inquired why this is done. Mayor Wright replied that during a revaluation year the mill rate changes significantly, and stated that it does not make sense to use the mill rate change as a baseline during revaluation years; therefore total expenditures are used during revaluation years. Commissioner Boorman inquired as to why total proposed expenditures are not used as a baseline every year. Mayor Wright stated that the number one concern of taxpayers is how much their tax bill goes up. Commissioner Boorman inquired whether Atty. Clark has performed any tax assessment appeals in the Town of Newington. Atty. Clark replied in the negative but indicated that he has performed his own successful tax assessment appeal in his town of residence. Commissioner Boorman noted language in section 821(A) that states: “If, however, the Budget is adopted in a budget year when the total assessment reflects the revaluation of any real property...” and stated that even

with one successful tax assessment appeal, the Town will move *off what it was, and in that instance will we do total expenditures?* Atty. Clark replied that the term “revaluation” is in the Connecticut General Statutes to describe a specific procedure in which towns must revalue all real property on its grand list. He stated that while properties that have successful assessment appeals have indeed been revalued, they have not been revalued in terms of revaluation. He stated that revaluation has a specific meaning under Connecticut General Statutes. Commissioner Boorman inquired where the language in section 821 (A) indicates that the term “revaluation” is revaluation in terms of the State statutes. Atty. Clark replied that the term “deferred revaluation” should define that the language is in terms of the State statute definition of revaluation. Commissioner Boorman replied that the term “deferred revaluation” only applies to deferred revaluations and this language is in regards to any revaluation of any property. Atty. Clark suggested that language be added to the section to make it clear that the term “revaluation” is in regards to the Connecticut General Statutes. Mayor Wright stated that the language is intended to refer to years in which Town-level revaluation is to take place, and stated that the language as written takes care of the intent. He inquired whether Atty. Clark agreed, and Atty. Clark replied in the affirmative, and stated that the term is clear taken at face value. Commissioner Boorman inquired whether *the Webster Dictionary definition would refer to Connecticut General Statutes.* Atty. Clark replied in the negative but explained that *I am certain that if you are in the State of Connecticut and you are dealing with a document that is dealing with the valuation of real property, and you use the terms “revaluation” and “deferred revaluation” that it’s pretty clear that you are talking about the revaluation process under Connecticut General Statutes.* He stated that it is the Commission’s prerogative to change if it wishes.

Commissioner Nafis noted that the three-percent expenditure increase cap would be in place during revaluation and phased-in revaluation years, and inquired whether in the event of a five-year phased-in revaluation each of those five years would be determined by an increase of expenditures rather than mill rate. Atty. Clark replied in the affirmative. Commissioner Nafis expressed concern with that fact, and noted that there has been a history in the Town of expenditures being greater than three-percent while maintaining a mill rate increase of less than three-percent due to the Town taking funds from its reserves. Mayor Wright interjected that this is not correct. Commissioner Nafis continued that it would be problematic to use the increase of expenditures over a several-year phased-in revaluation, but also inquired why increase of expenditures is not used as an indicator every year. He stated that in order to keep taxes down the Town needs to control expenditures. Mayor Wright explained that in revaluation years or during deferred revaluation there could be a situation in which tax bills will increase significantly despite the mill rate increase coming in at less than three-percent. Commissioner Bafundo noted that the language keeps the door open in the event of a phased-in revaluation, but does not commit the Town to actually holding a phased-in revaluation. She noted that there are no changes to be made to section 821(A).

(Mayor Wright exited the meeting at 7:45pm)

#### Section 821(B)

Commissioner Nafis noted that the public hearing is to be set up twenty-one days prior to the referendum vote, yet notices are not *sent out* until ten days prior to the vote. He inquired when notices are sent to absentee voters and inquired why notices are not sent sooner so that these people have the chance to educate themselves. Commissioner Boni replied that the language states “at least ten days” and noted that the notices can be sent out sooner. Atty. Clark concurred. Commissioner Nafis stated that it would make more sense to stipulate that a notice has to go out further ahead of time in order to give people time to educate themselves.

Commissioner Nafis noted that there are two issues, the notice of the public hearing and the notice to the electors of the vote. He stated that section 821(B) is in relation to publishing the notice in the newspaper. Commissioner Boorman noted language in section 821(A) which states that the referendum is to be conducted in accordance with Connecticut General Statutes. He inquired whether the entire formula fits into the statutes. He inquired whether the ten-day calendar indicated in section 821(B) meets the requirements under Connecticut General Statutes. Atty. Clark replied in the affirmative, and explained that the statutes only call for six to seven days to post a notice in a newspaper. He stated that there are no statutory requirements related to mailing notices. The Commission did not make any amendments to section 821(B).

#### Section 821(C)

Commissioner Boorman asked for an explanation of the meaning of the term “real dollar value” and noted that Councilor Cohen has asked the same question numerous times. Atty. Clark explained that the term “real dollar value” means the absolute, actual dollar value of the budget. He stated that the term “real dollar” was used to

avoid confusion in respect to a percentage change. Commissioner Boorman inquired as to why a phrase such as “the total amount of the budget as approved by the Town Council” can’t be used instead. Atty. Clark replied that while he used the term “real dollar value” it can be changed at the discretion of the Commission. Commissioner Boorman stated that the phrase “real dollar value” seems as if it would be subject to economists debating the meaning of the term and indicated that he would rather use language that is more concrete. Atty. Clark stated that the language reflects *what the actual dollar value of what the budget would be. I think it's solid as-is*. Commissioner Boni stated that the language should remain as-is. Commissioner Briggaman agreed that the language should remain as-is. Commissioner Bafundo stated that she may wish to see the term changed, and asked for another explanation. Atty. Clark stated that the word “real” can be deleted from the phrase so that it just reads “dollar value” Commissioner Bafundo indicated that she is fine with the language as written.

Commissioner Nafis moved to amend the language in section 821(C) so that it starts with the language *“Additionally, notice will be given no later than seven days following the determination of a need for a referendum...”* He explained that this will give the people at least twenty-one days to do their research and to give the absentee voters a chance as well. Motion seconded by Commissioner Boorman.

Commissioner Briggaman inquired of Town Clerk Tanya Lane what timeframes are used for other expenditure-related referendums. Town Clerk Lane replied that she has not experienced such a referendum during her time of service to this Town. Commissioner Boorman stated that this question is better suited for the legal counsel. Atty. Clark stated that this notice provision is not a requirement of State statute and as far as he knows it is unique to this budget referendum provision. Commissioner Boorman inquired whether the motion on the table will affect any of the requirements of referendum under State statutes. Atty. Clark replied in the negative. Commissioner Bafundo stated that the language as written was in place to allow for time for the mailings to be generated. She noted that there are no statutory requirements pertaining to mailings and that ten days is a minimum that does not restrict the mailing from going out any sooner.

Commissioner Nafis reiterated that his motion is to require that the mailing goes out within seven days of the determination that a referendum is necessary, which would essentially cause the mailings to go out twenty-one days prior to the referendum.

#### Roll Call Vote

Commissioner Bafundo – No  
Commissioner Boni – No  
Commissioner Boorman – Yes  
Commissioner Briggaman – No  
Commissioner Nafis – Yes

Motion failed 2-3 as indicated

Commissioner Boorman indicated that there are requirements under Connecticut General Statutes as to what the Town can and cannot send out *once you have a referendum* and inquired whether the information that is required to be sent under the Charter language meets the statutory requirements. Atty. Clark replied in the affirmative and explained that the statutes are intended to prevent biased or persuasive information from being sent, and noted that the language in section 821 is neutral. Commissioner Boorman noted that the mailings will include an estimate of a property owner’s taxes under the proposed budget. Atty. Clark stated that the mailings adhere to the statutes as long as they are neutral and accurate. Commissioner Boorman indicated that an estimate, by its very nature, may not be accurate. Atty. Clark replied that it is considered accurate if it is listed as an estimate, since it is coming from the Assessor. Commissioner Boorman inquired whether the Town of West Hartford uses the word “estimate” in its language. Atty. Clark replied in the affirmative.

Commissioner Nafis inquired as to why the increase to the mill rate is not required to be part of the notice. He stated electors that don’t own property are getting the new real dollar value of the budget, the percentage change over the prior year and estimated mill rate for that budget, but are not getting the increase in the mill rate, which is what triggers the referendum in the first place. He stated that electors that do own property are getting estimated taxes and the estimated increase over the prior year’s taxes but not the increase in the mill rate. He stated that taxpayers that are not electors do not get any notice. He stated that all notices should include the increase in the mill rate. He stated that the change in the budget is not the same as the change in

the mill rate. Atty. Clark stated that it would be easy to add a line to include the increase over the previous year's mill rate and to insert the information into the notices.

Commissioner Boorman noted that there will not necessarily be mailings that go out to taxpayers that are not electors, and inquired why these taxpayers are not included in the mailings. Commissioner Boni stated that he is satisfied with the language as-is. He inquired whether there is anyone who doesn't know the current mill rate. Commissioner Bafundo stated that including the mill rate change in the document wouldn't hurt. Commissioner Boorman noted that some of the Town's largest taxpayers are not electors and stated that all taxpayers large and small should receive a notice. Atty. Clark stated that the intent of the notice is to inform electors of the referendum. Commissioner Boorman stated that non-electors may want to campaign for or against a proposed budget and are not limited by State statutes to what they want to do in terms of being private entities. Commissioner Bafundo stated that the notices are not statute-driven and are sent as a courtesy to the voters to inform them of an upcoming referendum. Commissioner Boorman inquired as to why the taxpayers that are not voters shouldn't be extended the same information. Commissioner Briggaman inquired whether it would be a burden on the Town to send notices to non-electors. Commissioner Bafundo stated that the communication is intended for the voters and indicated that she is in support of maintaining the communication to be sent to the voters.

Commissioner Boorman moved to amend the language of section 821(C) in order to require that notices of a referendum are mailed to all of the Town's taxpayers, whether or not they are electors. Motion seconded by Commissioner Nafis.

Commissioner Briggaman inquired whether the intent of the requirement would be to notify taxpayers such as manufacturing plants of a referendum. Commissioner Boorman clarified that the notice should include all of the information that would be sent to a taxpayer that is also an elector. Commissioner Briggaman stated that he would not have a problem in notifying non-electors of a referendum.

#### Roll Call Vote

Commissioner Bafundo – Yes

Commissioner Boni – No

Commissioner Boorman – Yes

Commissioner Briggaman – Yes

Commissioner Nafis – Yes

Motion passed 4-1 as indicated.

Commissioner Nafis moved to amend the final sentence in section 821(C) in order to require that voters are informed as to what will need to be changed in the budget to meet the three-percent increase requirement in the event of a failed referendum. Motion seconded by Commissioner Boorman.

Commissioner Nafis remarked that he has heard over and over that people should have the right to come out to vote on their budget and should know what they are voting about, yet the voters will not have any information about the new budget. He stated that it is wrong to ask the public to vote yes or no without knowing what changed in the budget to get down to three-percent. He remarked that it is not just about taxes, its about spending and getting what the Town needs to keep moving ahead and to prevent it from falling behind. He distributed an article from the front page of the USA Today (article attached) regarding mandated municipal tax cuts in the State of Florida, and while initially residents were in favor of the cuts they suddenly began to experience an increase of fees for services, etc. He stated that if people don't want to pay more than three-percent then they shouldn't have to, but stated that people need to be informed about what they are going to lose if they are going to cast an informed and responsible vote. He stated that the items to be cut should be determined ahead of time and the information should be made available to the public. He stated that if there is going to be a *tax cap* people should know up front what will need to happen in order to get the budget down to three-percent. Commissioner Boni stated that voters can always get that information from Council meetings, and expressed doubt that people would fully be able to understand any changes listed on a piece of paper without attending a meeting and asking questions anyway. Commissioner Bafundo stated that people need to be willing to pay the bill if it is more than three-percent. She stated that the Commission does not distrust elected officials, but stated that it is important, especially in this economy, for people to have input and for people to have a say. She stated that it would be difficult to create an honest, non-biased list of what



would be cut from the budget. Commissioner Nafis stated that it is important for the information to be available upfront so that people know why they are going to vote for or against something. Atty. Clark stated that such a notice could run into the problem of being biased and political and could create a situation that may go against State law. Commissioner Briggaman stated that there is the possibility that information may be included that may be proved to be inaccurate and stated that it is important that the document remain neutral.

Commissioner Boorman noted an excerpt in the USA Today article that states: "It's a big scam...that's how some of the cities are back-dooring. They knock off some property taxes and then charge more fees." And "faced with a shortfall, the city cut 80 positions, including 67 vacancies; sliced pool hours; and imposed a four-day, 40 hour workweek for some employees. It kept its tennis program going by introducing membership fees..." Commissioner Boorman remarked that the entire notion thwarts representative democracy and trusting your representatives to do what's best for the Town.

#### Roll Call Vote

Commissioner Bafundo – No

Commissioner Boni – No

Commissioner Boorman – Yes

Commissioner Briggaman – No

Commissioner Nafis – Yes

Motion failed 2-3 as indicated

The Commission took a recess at 8:30pm and resumed at 8:41pm.

#### Section 821(D)

No amendments were made to this section.

#### Section 821(E)

Commissioner Boorman moved to amend the language in section 821(E) to allow for three choices on a budget referendum ballot: "Yes", "No-too high", and "No-too low". Motion seconded by Commissioner Nafis.

Commissioner Boorman noted several comments from various people that there is no way to know why a voter votes no. He stated while there seems to be an assumption that people would vote no if they think that the budget is too high there have been situations in Town in which blocks of voters have expressed opinion that more money is needed in for a specific reason – for example, education. He stated that it would be significant for the voters to have the "no-too high" and "no-too low" options so that the Council can have a sense of what the voter's want, especially since the Council will only have seven days to come up with a revised budget. Commissioner Nafis agreed and remarked that having the three choices on the vote would allow more flexibility for the Council.

Commissioner Briggaman stated that Council meetings and public hearings already serve as a forum for the public to express their opinions about whether the budget is too high or too low. Commissioner Boorman noted that public turnout at those meetings is not usually very good and inquired whether there is a downside to having the three choices. Commissioner Briggaman stated that if the public is interested then the public will come out and express their opinions. Commissioner Boorman inquired why voter opinion shouldn't be expressed in the voting booths. Commissioner Bafundo expressed concern that having three options on the ballots will skew the votes. She stated that another line below the "yes" or "no" options to qualify a reason for a "no" vote would not skew the results, but stated that she would be against having three choices on the first line of the ballot.

Commissioner Boorman modified his motion to state that there would be two lines on the budget referendum ballot: a line to vote "yes" or "no" on the budget and a second line to qualify a "no" vote as "no-too high" or "no-too low". Commissioner Bafundo inquired whether there can be more than one line of questioning on a referendum question. Atty. Clark stated that the ballot would have to contain two questions, "Yes or No" and if no, "no- too high" and "no- too low". Commissioner Boni stated that he is in favor of keeping the language as-is. Commissioner Nafis stated that the goal is to get as much information from the voters as possible, and stated that you will not get this information with just a "yes" or "no" vote. Commissioner Boorman agreed.

Commissioner Bafundo stated that the most important thing is to get a clear yes or no and stated that the Council generally gets a very clear sense of what the public wants.

Roll Call Vote

Commissioner Bafundo – No  
Commissioner Boni – No  
Commissioner Boorman – Yes  
Commissioner Briggaman – No  
Commissioner Nafis – Yes

Motion failed 2-3 as indicated

Section 821(F)

Commissioner Boorman requested that the Commission consider requiring that a minimum number of electors participate in order for the vote to be valid in a budget referendum. Commissioner Briggaman stated that just as there is no minimum number of voters required for a general election there should be no minimum number of voters required for a budget referendum. Commissioner Nafis suggested a ten-percent minimum voter turnout for a budget referendum. Commissioners Boni and Bafundo agreed with Commissioner Briggaman. No amendments were made to the section.

Section 821(G)

No amendments were made to this section.

Section 821(H)

Commissioner Boorman remarked that he does not understand why no notice is sent to the voters for the second referendum and stated that assuming that the Council makes changes to the budget after the first failed referendum the public should be aware of the impact of these changes. Commissioner Nafis stated that at a minimum the same kind of information should go out for the second referendum, but stated that notices of what has been changed in the amended budget should be sent as well. Atty. Clark stated that the idea behind the first notice is that it sets participation into motion and that participation will flow through to the end. Commissioner Nafis remarked that it is not acceptable to not send any notice to the taxpayers regarding the changes made, or at least send the new tax rate. He also inquired whether legal notice is required for the second referendum. Atty. Clark replied in the affirmative and stated that the legal notice would be published in newspapers in accordance with State statutes. Commissioner Boni indicated that he is happy with the language as-is. Atty. Clark recommended removing the word “not” from the last sentence of 821(H) in order to address public notice of the second referendum.

Commissioner Boorman moved to remove the word “not” from the final sentence of section 821(H). Motion seconded by Commissioner Nafis.

Commissioner Briggaman stated that he would support the motion since there is no undue burden on the tax department to send the notice. Commissioner Boni stated that he is opposed to the motion.

Roll Call Vote

Commissioner Bafundo – Yes  
Commissioner Boni – No  
Commissioner Boorman – Yes  
Commissioner Briggaman – Yes  
Commissioner Nafis – Yes

Motion passed 4-1 as indicated.

Commissioner Boorman inquired whether a second referendum would be held in the event that the substitute budget came in at a less-than three-percent increase. Atty. Clark replied in the negative.

Section 821(I)

No amendments were made to this section.

#### Section 821(J)

Commissioner Nafis stated concern with the Council only being allowed seven days to come up with a substitute budget and remarked that it is unrealistic to ask the Council to do so. He stated that the only options that he can see that would take care of the problem would be to either allow the budget process to go beyond the new fiscal year or to allow only one referendum and then have it go back to the elected officials if the referendum fails. Commissioner Boorman inquired whether the timeframe could be increased to ten calendar days. Commissioner Boni noted that the Commission settled on the seven-day period based on the Town Manager's timeline for adopting a budget. He stated that it will not be easy for the Council to come up with a new budget, but remarked that the timeframe is a good incentive for the Council to get its work done. Commissioner Briggaman agreed with Commissioner Boni. Commissioner Bafundo stated that by that point the Council will have a very thorough knowledge of the budget and should be able to complete the task on time.

(Mayor Wright rejoined the meeting at 9:10pm)

Commissioner Nafis requested an explanation of the education circuit breaker. Atty. Clark explained that the language mandates that *any increase from the previous year in the Board of Education's budget has to be a half-percent higher than any non-Board of Education spending. There's no magic formula, it's just a policy decision that was made to make sure that the Board of Education is getting a higher percentage increase than the remaining Town budget.* He stated that it has nothing to do with the tax increase; rather it is in regards to the spending. Mayor Wright stated that the circuit breaker is to ensure that a preference is given to education spending. He stated that if the budget fails twice the maximum that the budget can increase is three-percent and stated that a slight edge of a half of a percent will be given to education, which is the most important function of the Town. Commissioner Boorman stated that there are two moving targets involved: the Board's budget and the Town's budget, and inquired what the half-percent refers to in terms of the increase. Atty. Clark replied that the two numbers are relative to each other, and it is to make sure that with any percentage increase the Board is a half-percent over the budget of the Town. He stated that for example if the non-Board budget gets a five-percent increase then the Board must get a five and a half-percent increase. (Several people speak at once.) Commissioner Boorman noted that the Board budget is separate from the non-Board budget, and stated that the budgets are vastly different. He also noted that the language includes the term "final budget". Atty. Clark stated that the intent is to require that the *Council and Board of Education to make sure that any increase in spending is going to be pushed towards the education side and it's to prevent people from gutting the Board of Education when cuts are being made and spending choices are being made.* Mayor Wright stated that this will not come into play if the proposed budget of less than three-percent. He stated that it would only come into play after a second failed referendum, at which time the government will know that there must be a three-percent increase and will then give the edge to education. Commissioner Boorman stated that the language is problematic. Commissioner Nafis stated that while he understands the math he doesn't understand how limiting the budget increase to three-percent and then giving the half-percent to the Board will help education. He remarked that the Council and Board should just look at what the Board needs to operate. No amendments were made to the section.

#### Section 821(K)

No amendments were made to this section.

- B Discussion – as Time Allows, Review/Comparison of Version 7-Revisions to the Original Charter

Atty. Clark briefly reviewed changes made to the Charter regarding corrections to typos and other non-substantive changes.

- C Discussion – as Time Allows, Follow Up on Questions Related to Other Sections of the Charter that have been Previously Discussed.

Atty. Clark distributed proposed language regarding section 415 – concurrent offices. Commissioner Bafundo noted that a memo from Lori Verreault regarding the subject had been distributed as well. Mayor Wright explained that the language allows the Mayor, a Council member or a Board of Education member to be appointed to a board or commission as a voting member. Atty. Clark explained that it would allow for that to happen except for where otherwise prohibited in the Charter or as prohibited in the creation of the commission.

(Proposed language attached.) Atty. Clark indicated that the language in section 415 of the current Charter has been removed because it is in violation of State law.

Commissioner Boorman remarked that Ms. Verreault has provided an in-depth analysis of the topic of concurrent offices and allowing a member of the Council or Board serve on a board or commission. He requested to table the discussion until the next meeting in order to allow the Commission the time to consider the memo, the language and the topic. Mayor Wright stated that he supports the proposed language for section 415. Commissioner Bafundo stated that she supports the proposed language. Commissioner Nafis remarked that he does not believe that Councilors and Board members should be allowed to serve as voting members of a board or commission and remarked that those positions should be reserved for members of the public. He stated that he will not support the proposed language.

Commissioner Briggaman moved to accept the proposed language for Charter section 415 as written. Motion seconded by Commissioner Boni.

#### Roll Call Vote

Commissioner Bafundo – Yes  
Commissioner Boni – Yes  
Commissioner Boorman – No  
Commissioner Briggaman – Yes  
Commissioner Nafis – No

Motion passed 3-2 as indicated.

The Commission received revised language for Charter Article X. (attached)

Commissioner Briggaman moved to accept the amendments to Charter Article X. Motion seconded by Commissioner Boni.

#### Roll Call Vote

Commissioner Bafundo – Yes  
Commissioner Boni – Yes  
Commissioner Boorman – Yes  
Commissioner Briggaman – Yes  
Commissioner Nafis – Yes

Motion passed 5-0.

### **VII ANY OTHER BUSINESS PERTINENT TO THIS COMMISSION**

Commissioner Boni moved the following:

WHEREAS, pursuant to Connecticut General Statutes section 7-191(A) this commission is required to hold at least two public hearings on any proposed charter, charter amendments or home rule ordinance amendments, including one prior to the beginning of any substantive work on such charter, charter amendments or home rule ordinance amendments, and one after the draft report to the Newington Town Council has been completed, but not submitted; and

WHEREAS, this commission held one public hearing prior to the beginning of any substantive work on any proposed charter, charter amendments or home rule ordinance amendments; and

WHEREAS, a draft report on a proposed charter has been completed by this commission, but not submitted to the Newington Town Council, now therefore be it

RESOLVED, that a public hearing pursuant to Connecticut General Statutes section 7-191(A) be scheduled for December 15, 2008 at 2:00pm in the auditorium of the Town of Newington's Senior & Disabled Center; and be it further

RESOLVED, that a public hearing pursuant Connecticut General Statutes section 7-191(A) be scheduled for December 15, 2008 at 6:30pm at the Newington Town Hall; and be it further

RESOLVED, that a Special Meeting of this commission be called to order immediately following the 6:30pm public hearing with the sole agenda item being consideration of submitting the proposed charter discussed at the aforesaid public hearings to the Town Clerk for transmission to the Newington Town Council as a draft report pursuant to Connecticut General Statutes section 7-191(B).

Motion seconded by Commissioner Briggaman.

Mayor Wright stated support for the motion and for holding two public hearings on December 15. He noted that eventually the Council will be able to send the draft back to the Commission with any changes it sees fit.

Commissioner Boorman inquired whether the Commission has copy a draft report of the Charter. Mayor Wright replied in the affirmative, and stated it is version seven of the draft report. Commissioner Bafundo stated that the draft report will contain the changes made to version seven at the current meeting. Commissioner Boorman inquired whether there is a version eight available, and questioned how the draft report could be considered complete, as indicated in the resolution, without the changes made at the current meeting included. He indicated that version eight is not complete and has not been approved by the Commission. Atty. Clark stated that the motion makes the report the draft report. Commissioner Bafundo stated that the draft report will be version seven with amendments made at the current meeting. She stated that it is the appropriate time in the process to go to the public. Atty. Clark stated that the Commission will be able to consider recommendations of the public after the public hearing. Commissioner Boorman requested Atty. Clark's opinion as to whether the motion *meets the whereas clause: "whereas a draft report on the proposed Charter has been completed by this Commission"*. Atty. Clark replied that a draft report has been completed by the Commission but *has not yet been voted on by the Commission as being final or to be sent to the Town Council*. Commissioner Boorman inquired whether the Commission has looked at a draft report, completed based on the amendments the Commission has made at the current meeting. Atty. Clark stated that he has the draft report in his hands that includes changes made at this meeting, and noted that the resolution includes a special meeting to be held after the public hearing.

#### Roll Call Vote

Commissioner Bafundo – Yes

Commissioner Boni – Yes

Commissioner Boorman – No

Commissioner Briggaman – Yes

Commissioner Nafis – No

Motion passed 3-2 as indicated.

### **VIII WRITTEN COMMUNICATION FROM THE PUBLIC**

Commissioner Bafundo noted an email submitted to the Commission from Joe Lapierre of 42 Goodale Drive, and indicated that the email was in regards to the issue of allowing the Fire Chief/Fire Marshall positions to be held by the same person. (Email attached):

### **IX PUBLIC PARTICIPATION**

Myra Cohen, 42 Jeffery Lane, Town Council Member: Mrs. Cohen requested that the following be entered verbatim into her comments in the November 13 minutes, page two, line seven of her comments: :

*This section appears to apply only to the final budget or the ultimate final budget. Does this refer to the Board of Education's operating budget, currently \$55,872,142 and the Town's operating budget, currently \$28,134,112 or the Board's and the Town's shares of total appropriations, currently \$93,321,692, which includes debt service for the Town and the Board, capital improvements for the Town and the Board, MDC payments, and employee liability reserve fund for the Town and the Board?*

Mrs. Cohen stated that the third line from the end of her comments should read:

*Final budget or alternate final budget*

Mrs. Cohen explained that she is requesting that the numbers indicated above be included in the minutes because page 7, line 5 of the October 27 minutes states that "the Board's budget is about \$52,000,000 and the Town's budget is about \$40,000,000." She stated that these numbers are not accurate. She stated that by the time the Commission reached section 821 in its discussion the economy had changed dramatically, and therefore the Commission decided to keep the ability to issue tax anticipation notes, and indicated that the Commission would have to go back to section 407 and include the previously deleted sentence that *tax anticipation notes shall not require a public hearing*. She remarked that she has mentioned this several times.

Mrs. Cohen noted that in addition to not requiring a minimum voter turnout percentage in section 821, the Commission has also deleted the minimum voter percentage requirements in Charter sections 408, 410 and 411, and stated that deleting the percentages will ruin a Charter that served the Town for so many years. She also requested that the Commission review section 407, and requested that the Commission review page one of the budget book before approving the final version of the budget referendum. Mrs. Cohen inquired whether the real dollar value of the budget is the amount to be raised by taxes, total expenditures, or some other item on the budget page. She stated that the proper term is *proposed appropriations* rather than *proposed expenditures, since an expenditure isn't an expenditure until it is spent*. Mrs. Cohen noted that the three-percent tax cap will be based on the increase of the proposed mill rate over the previous year's mill rate, and noted that due to a deletion in section 805 the Council does not propose a new mill rate. She noted that the education circuit breaker restricts Board of Education proposed expenditure increases to a half-percent more than non-Board proposed expenditures, and stated that she assumes that this refers to the appropriation of the Board's and Town's budget, meaning that the Board's operating budget must increase no less than a half-percent more than the Town's operating budget percentage increase, and can increase no more than the Town's operating budget increase – *you're stuck at a half-percent*. She indicated that in the current budget the Board's operating budget increased 4.31% over the previous year, while the Town's operating budget increased 3.13% over the previous year, giving the Board a 1.18% higher increase than the Town's increase over the previous year. Mrs. Cohen stated that in 2007-2008 the Town's increase was 5.16% and the Board's was 5.74% - a .58% higher increase in the Board than the Town. She stated that in 2006-2007 the Town's increase was 6.94% while the Board's increase was 6.23% - a .71% less of an increase than the Town's budget. She stated that in 2005-2006 the Town's increase was 4.95% and Board's increase was 4.99%, .04% more of an increase in the Board than the Town. Mrs. Cohen inquired how a half-percent increase could just be locked in when the number changes from year to year. She remarked that the Commission doesn't seem to care how few people will come out to vote against the Council's budget, or how many people don't even bother to come out to vote. She stated that the Commission does not question whether the language is referring to operating budget, total appropriations or the amount to be raised by taxes. She stated that the Commission is not considering loss of non-tax revenue or the grant list. She stated that the Commission *is so anxious to approve anything that sounds good that you do not stop to consider if it makes any sense*.

Tom Bowen, 22 Woods Way, Town Council Member: Mr. Bowen stated that the Town Council would never accept a draft without actually having a chance to read the draft, as it is possible that the draft can contain mistakes or things that do not actually reflect what it intended. He inquired as to why the Commission is rushing to accept the draft that no one has looked at. Mr. Bowen noted that there were certain people who ran for Town Council last year because they were disappointed in how the Council was dealing with the Board of Education's budget versus the Town's budget. He stated that these people personally chastised him on several occasions for being a *ringleader, because at times I gave too much of a raise to the Board and not enough of a raise to the Town, or too much to the Board of Ed period. I was called names, I was told I don't listen to people...I was told I don't care about people's incomes*. Mr. Bowen inquired as to why the Commission, without any thought, is now giving a larger increase to the Board than to the Town. He stated that he does not understand because there could be a case in which the both bodies agree that Board needs a much smaller increase than the Town does. He commented that it is possible *that politically some people found out that they wouldn't have support from the Board of Ed on this issue unless we gave them more money. Or else I'm not sure why*. He noted that in his experience, the Board's increase has often been higher than the Town's increase. Mr. Bowen requested an apology from Atty. Clark for his comments that the reason for the education circuit breaker is to assure that *no one guts the Board of Ed's budget*. He remarked that in his seven years on the Council people have trusted him to be fair to both sides, and to do the best he can for all of the Town residents. He stated that he tries to represent everyone and to be fair to both side and stated that he takes offense that the Council will no longer be trusted to be fair to both the Town side and the Board of Education side. He stated that he has a lot of respect for Atty. Clark's work, but asked him to be careful in his inferences to the Council's work.

Rose Lyons, 46 Elton Drive: Ms. Lyons stated that this entire process has been a learning experience for her and stated that she is confused as to how much the Commission wants the public to know and how much information it is willing to give. She noted that one of the reasons that the Mayor gave for disbanding the previous Safety Committee was that the Committee had Councilors serving as voting members and that he had felt that was a conflict of interest. She also remarked that it is interesting that the Commission would pass the education circuit breaker without any public input. She urged the Commission to listen to the public's

opinion regarding the referendum. She thanked Commissioners Boorman and Nafis for their work coming into a *no-win situation*.

**X COMMENTS BY COMMISSIONERS**

Commissioner Briggaman thanked members of the Newington Volunteer Fire Department for coming out and voicing their opinions and noted that the Commission has listened.

Commissioner Boni stated that Councilor Bowen's comments being criticized during the budget sessions were in reference to him, and remarked that he was very passionate in his comments and there was nothing personal against Councilor Bowen. He apologized if he had offended Councilor Bowen.

**XI ADJOURNMENT**

Commissioner Boni moved to adjourn the meeting at 10:08PM. Motion seconded by Commissioner Boorman. Motion passed 5-0.

Respectfully Submitted,

Mrs. Jaime Trevethan  
Clerk – Charter Revision Commission